

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

OLENA KALICHENKO,

Case No. 24-CV-2426 (JMB/JFD)

Plaintiff,

v.

REPORT AND RECOMMENDATION

WARDEN MICHAEL SEPAL, FCI
Waseca; CAPTAIN KOCH, FCI Waseca;
and UNIT MANAGER KOPISCHKE,
FCI Waseca,

Defendants.

In an order dated July 2, 2024, this Court directed plaintiff Olena Kalichenko to pay an initial partial filing fee of \$5.49, consistent with 28 U.S.C. § 1915(b). (Dkt. No. 10.) Ms. Kalichenko was given 21 days to pay the required initial partial filing fee, failing which, the Court warned, it would be recommended that this action be dismissed without prejudice for failure to prosecute. (*Id.* (citing Fed. R. Civ. P. 41(b)).)

That deadline has now passed, and Ms. Kalichenko has not paid the required initial partial filing fee. In fact, Ms. Kalichenko has not communicated with the Court about this case at all since this matter was transferred to this District from the United States District Court for the Northern District of California. Accordingly, this Court now recommends, consistent with the warning previously given to Ms. Kalichenko, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Wewerka v. Roper*, 431 F. App'x 517, 517 (8th Cir. 2011) (per curiam) (affirming dismissal without

prejudice pursuant to Rule 41(b) following prisoner's failure to pay initial partial filing fee).

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: July 31, 2024

s/ John F. Docherty
JOHN F. DOCHERTY
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals. Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).